

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WARREN RAFFENSBERGER	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 09-3912
PAUL K. SMEAL, et al.	:	

ORDER

AND NOW, this 17th day of February, 2010, upon careful and independent consideration of the petition for a Writ of Habeas Corpus, and after review of the Report and Recommendation of United States Magistrate Judge Thomas J. Reuter (Doc. No. 13), to which no objections have been filed, it is **ORDERED** that:

1. The Report and Recommendation is **APPROVED and ADOPTED**.
2. The petition for a Writ of Habeas Corpus is **DENIED without prejudice** for failure to exhaust state court remedies.
3. There is no basis to issue a certificate of appealability.
4. The Clerk of Court shall mark this case closed for statistical purposes.

IT IS SO ORDERED.

/s/ Paul S. Diamond

Paul S. Diamond, J.